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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE MANUEL MICHEL,

Defendant and Appellant.

C072358

(Super. Ct. No. CM036816)

Defendant Jose Manuel Michel pleaded no contest to assault with a deadly weapon and admitted inflicting great bodily injury. (Pen. Code, §§ 245, subd. (a)(1), 12022.7, subd. (a).) Sentenced to six years in prison, he appeals.

The sole issue on appeal is the propriety of the trial court's requiring defendant to pay a \$736 probation report fee. (Pen. Code, § 1203.1b.) Defendant contends the record does not support a finding that he has the ability to pay such a fee. He did not, however, object to the imposition of the fee in the trial court.

Relying on *People v. Pacheco* (2011) 187 Cal.App.4th 1392, defendant contends his failure to object in the trial court did not forfeit the issue for appeal. He noted in his briefs, however, that the issue was pending before the California Supreme Court.

During the pendency of this appeal, the California Supreme Court issued its opinion in *People v. McCullough* (2013) 56 Cal.4th 589. *McCullough* holds that the failure to object to the imposition of a booking fee forfeits the argument on appeal that there was no evidence of the defendant's ability to pay such a fee and disapproves *People v. Pacheco, supra*, 187 Cal.App.4th 1392. We discern no distinction between the imposition of the booking fee and the probation report fee in this regard. Accordingly, we conclude defendant's claim is forfeited.

DISPOSITION

The judgment is affirmed.

RAYE, P. J.

We concur:

HULL, J.

BUTZ, J.